

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MALIBU MEDIA, LLC,

No. C 15-04289 WHA

Plaintiff,

v.

JOHN DOE SUBSCRIBER ASSIGNED IP
ADDRESS 76.103.148.240,

Defendant.

**ORDER GRANTING *PRO SE*
DEFENDANT'S REQUEST
TO MOVE TO QUASH
SUBPOENA ANONYMOUSLY**

A prior order granted plaintiff's motion for leave to serve a third-party subpoena on Comcast Cable Communications, LLC, seeking the name and address of the subscriber assigned to the IP address identified above (Dkt. No. 9). That order provided that any identifying information about defendant must be filed under seal. Comcast has forwarded a motion by mail from defendant, who is proceeding *pro se*. Defendant contends that he or she is not subject to personal jurisdiction in the Northern District of California and seeks to proceed with the litigation anonymously, that is, without disclosing his or her identifying information to Malibu Media, at least until any motion to quash the subpoena can be resolved. If *pro se* defendant is required to appear in this action in to file a motion to quash, any such motion will be moot.

This order holds that *pro se* defendant may proceed without disclosing any identifying information to Malibu Media until any motion to quash the subpoena is resolved. For the

1 practical reason that the Court and the parties must receive relevant pleadings and orders, this
2 protection must be subject to the following procedures:

- 3 1. Plaintiff shall please **SERVE** this order on Comcast, and Comcast
4 shall please forward a copy of this order to the subscriber assigned
5 the above-captioned IP address. The Clerk shall also please mail a
6 copy of this order to the return address on the envelope that
7 contained defendant's motion (Dkt. No. 13).
- 8 2. By **DECEMBER 17**, defendant may move to quash the subpoena by
9 following the Court's procedure for manual filing. Defendant may
10 continue to use the pseudonym, "John Doe."
- 11 3. Defendant shall please also include a separate notice indicating his
12 or her name and an address at which he or she may receive process.
13 Defendant may file an *ex parte* motion to file that document under
14 seal in accordance with Civil L.R. 79-5.
- 15 4. To the extent defendant's motion to quash relies on evidence that
16 contains identifying information, defendant may file an *ex parte*
17 motion to file the portions of any declarations or exhibits containing
18 such exhibits under seal pursuant to Civil L.R. 79-5. Any evidence
19 submitted in support of defendant's motion to quash that contains
20 identifying information shall be reviewed *in camera* (that is, only
21 visible to the Court).
- 22 5. The Court will serve any other filings, including orders and
23 plaintiff's pleadings, on defendant at the address provided pursuant
24 to Paragraph 3 above.
- 25 6. Comcast shall not respond to the subpoena in this action until
26 further ordered by the Court.


27 If defendant's motion to quash is denied, he or she may continue litigate the case on the
28 merits under the pseudonym "John Doe," and any identifying information shall be redacted on
the public docket, although Malibu Media will, of course, be entitled to the subpoenaed
information at that time. As provided in the prior order, Malibu Media shall not use any
identifying information obtained in this action except to prosecute the claims as stated in its
complaint, nor may it disclose any such information.

Finally, defendant is concerned that plaintiff may engage in a "shake-down campaign" if
his or her information is disclosed. It is plaintiff's stated practice never to initiate settlement
discussions. Nevertheless, as a prophylactic measure, plaintiff is hereby **ORDERED** not to

engage in settlement discussions of any kind unless and until defendant explicitly states that he or she is interested in settling this matter.

IT IS SO ORDERED.

Dated: November 30, 2015.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE